

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
MAURICE MCKAY,

X

JUDGE SULLIVAN

05 CV 8936

Plaintiff,

-against-

TRIBOROUGH BRIDGE AND TUNNEL  
AUTHORITY ("TBTA"), TBTA POLICE OFFICER  
MICHAEL CHIAIA, Shield #2507, TBTA POLICE  
OFFICER JOSE VASQUEZ, TBTA POLICE  
OFFICER CLARENCE WHITAKER SHEILD #422,  
TBTA POLICE OFFICER MICHAEL ALBANO,  
TBTA POLICE OFFICER MICHAEL ZINO,

Defendants.

\_\_\_\_\_  
X

SPECIAL VERDICT FORM--LIABILITY AND DAMAGES

1. Do you find that plaintiff has met his burden of establishing, by a preponderance of the evidence, that one or more of the defendants subjected him to a malicious prosecution in violation of his federal constitutional rights?

MICHAEL CHIAIA Yes \_\_\_\_\_ No \_\_\_\_\_

JOSE VASQUEZ Yes \_\_\_\_\_ No \_\_\_\_\_

CLARENCE WHITAKER Yes \_\_\_\_\_ No \_\_\_\_\_

MICHAEL ALBANO Yes \_\_\_\_\_ No \_\_\_\_\_

MICHAEL ZINO Yes \_\_\_\_\_ No \_\_\_\_\_

Regardless of you answer to Question 1, please proceed to Question 2.

2. Do you find that plaintiff has met his burden of establishing, by a preponderance of the evidence, that one or more of the defendants used more force than was reasonable in violation of Mr. McKay's federal rights protected by the Fourth Amendment to the United States Constitution?

MICHAEL CHIAIA Yes \_\_\_\_\_ No \_\_\_\_\_

JOSE VASQUEZ Yes \_\_\_\_\_ No \_\_\_\_\_

CLARENCE WHITAKER Yes \_\_\_\_\_ No \_\_\_\_\_

MICHAEL ALBANO Yes \_\_\_\_\_ No \_\_\_\_\_

MICHAEL ZINO Yes \_\_\_\_\_ No \_\_\_\_\_

If you responded "No", to each one of the above questions, stop here and notify the clerk. If you responded "Yes" as to any officer in question 1, continue to question 3 now. If you responded "Yes" as to any officer in question 2, continue to question 5 now. If you responded "Yes" as to any officer in questions 1 and 2, proceed to question 7 now.

3. Has Mr. McKay proved by a direct result or a reasonably probable consequence of preponderance of the evidence that he suffered injury as a direct result or a reasonably probable consequence of one or more of the defendants' having maliciously prosecuted him?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to this question is "No", return to instructions following question 2. If your answer to this question is "Yes", proceed to question 4.

4. What amount of damages did Mr. McKay sustain as a result of one or more of the defendants having subjected him to a malicious prosecution?

\$ \_\_\_\_\_ past emotional distress

\$ \_\_\_\_\_ future emotional distress \_\_\_\_\_ number of years

\$ \_\_\_\_\_ legal expenses

\$ \_\_\_\_\_ loss of wages/overtime

\$ \_\_\_\_\_ future loss of employment opportunities \_\_\_\_\_ number of years

\$ \_\_\_\_\_ other damages

**(Defendant objects to this question because it believes only one question should be asked regarding damages and only after the jury has answered current question #5. If this Court will permit a question #4 separating damages for the mal pros claim the defendants also object to the breaking down of the damages in the matter requested by plaintiff and defendant requests only two lines, one for economic loss and one for non economic loss.**

Return to instructions following question 2.

5. Has Mr. McKay proved that he suffered injury as a direct result or a reasonably probable consequence of one or more of the defendants' having used more force than was reasonable?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to this question is "No", return to instructions following question 2. If your answer to this question is "Yes", proceed to question 6.

6. What amount of damages did Mr. McKay sustain as a result of one or more of the defendants having used more force than was reasonable?

\$ \_\_\_\_\_ past pain and suffering



\$\_\_\_\_\_ future pain and suffering \_\_\_\_\_ number of years

\$\_\_\_\_\_ past emotional distress damage

\$\_\_\_\_\_ future emotional distress \_\_\_\_\_ number of years

**Defendants object to plaintiff breaking down past pain and suffering from emotional distress and believe there should only be one line. The same is true for future damages.**

**Defendant reiterates its objections that there are two damage questions #4 and #6 and believe that there should be only one damage question.**

Return to instructions following question 2.

7. In addition to any compensatory damages you have awarded Mr. McKay, which compensate him for damages he actually suffered and will suffer, do you find that any of the individual defendants should pay punitive damages to Mr. McKay? If so, please state the amount.

MICHAEL CHIAIA	Amount _____	No _____
----------------	--------------	----------

JOSE VASQUEZ	Amount _____	No _____
--------------	--------------	----------

CLARENCE WHITAKER	Amount _____	No _____
-------------------	--------------	----------

MICHAEL ALBANO	Amount _____	No _____
----------------	--------------	----------

MICHAEL ZINO	Amount _____	No _____
--------------	--------------	----------

**(Defendant objects and states that there should not be an amount listed above and the jury should only report yes or no at this stage.)**

Dated: December 2, 2007  
Brooklyn, New York

\_\_\_\_\_  
David A. Zelman, Esq. (Dz8578)

Attorney for Plaintiff  
MAURICE McKAY  
612 Eastern Parkway  
Brooklyn, NY 11225  
(718) 604-3072

---

John Wynne, Esq. (Jw\_\_\_\_\_)  
Barry McTiernan and Moore, LLP  
Counselors at Law  
Attorneys for Defendants  
2 Rector Street,  
New York, NY 10007